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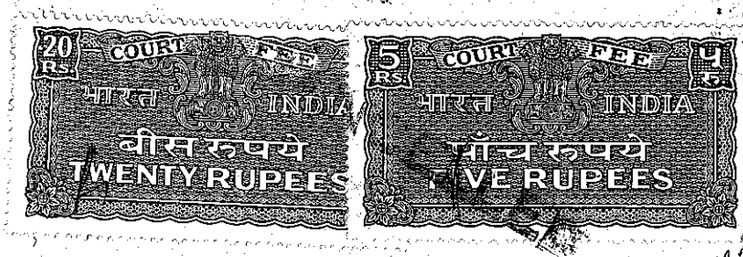

(2)

Division Bench (CMH)

IN THE HIGH COURT OF MADHYA PRADESH, JABALPUR

MISC. PETITION NO. 3223 /92

Petitioner .... M/S Gopiram Maturam, Kerosene Oil Dealer, through partner Shri Phoolchand Shukla, s/o Shri Matasharan Shukla, aged 60 years, resident of Raigarh Township, Tahsil and Distt. Raigarh

vs.

Respondents .... 1. State of M.P. through Secy., Dept. of Food and Civil Supplies, Vallabh Bhawan, Bhopal.

2. Collector Raigarh.

15246 — 23/9/92 Manoj Alam Advocate

D.D.R. 23/9/92

PETITION UNDER ART. 226/227 OF THE CONSTITUTION OF INDIA

(74)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....W.P.NO...3223/98 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	28-6-2005 Shri Manindra Shrivastava, Sr. Advocate with Shri Amrito Das, Advocate for the petitioner. Shri Sunil Otwani, Panel Lawyer for the State/respondents. Heard both the counsel. By this petition under Article 226/227 of the Constitution of India the petitioner has questioned the legality, propriety and correctness of the order dated 29-12-88 passed by the State Government in appeal No. F-9-41/88/29/2 filed by the petitioner herein whereby the order passed by the Collector confiscating kerosene and cancellation of licence was maintained. The review petition was also filed and the same came to be dismissed on 30th July 1992. Amongst other grounds, the main ground challenging the impugned order is that the petitioner was not given opportunity of hearing by the appellate authority and special averment has been made in para-11 of the petition. However, reply has been filed on behalf of the State in which it has been mentioned that order impugned itself contains about the hearing. But, learned counsel for the petitioner submits that it has been incorrectly recorded. The petitioner was never heard. As has been mentioned by learned counsel for the respondents that original record regarding the appeal is not traceable, in this connection, Section 6-C of the Essential Commodities Act, 1955 envisages that '*any person aggrieved by an order of confiscation may appeal to any judicial authority appointed by the state Government concerned and the judicial authority shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order*	

SP/FS/2005 - 20,000

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

75

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appealed against.' This provision specifically prescribes about the hearing of appeal and there is specific allegation in the writ petition that the petitioner was never heard before passing the impugned order.

Reply of the State Government is that the order itself contains about the hearing, but the State has not filed record whereby the presence of the petitioner on the date of hearing was recorded.

In view of the above, I am of the considered opinion that it is just, proper and fair to set aside the impugned orders and direct the authority to decide the appeal after restoring the appeal to its original number and also after giving opportunity of hearing to the petitioner.

In the result, the writ petition is allowed and the impugned order of appellate authority is set aside. The State/respondent is directed to restore the appeal to its original number and decide the same after hearing the petitioner as per the provisions of Section 6 of the Essential Commodities Act, 1955 in accordance with law.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

(पीछे देखिये)